

DIVISION 6. HISTORIC PRESERVATION REGULATIONS

10-1-925: PURPOSE: This Division may be referred to as the —Historic Resource Management Ordinance. The intent of this Division is to recognize, preserve, and protect historic Resources in the interest of the health, prosperity, social and cultural enrichment, and general welfare of the people. The purpose of this Division is to:

- a) Safeguard the heritage of the City by preserving Resources that reflect elements of the City's history;
- b) Encourage public understanding and involvement in the historic, cultural, architectural, archaeological, and social heritage of the City;
- c) Promote the private and public use and preservation of historic Resources for the education, appreciation and general welfare of the people;
- d) Promote the conservation, preservation and enhancement of historic Resources;
- e) Promote the conservation of energy and natural resources through the preservation and maintenance of historic Resources;
- f) Discourage the demolition, destruction, alteration, misuse or neglect of Designated Historic Resources which represent an important link to Burbank's past;
- g) Provide economic benefits to owners of qualifying historic Resources to ensure their continued maintenance and preservation; and
- h) To make all information about historic Resources and historic preservation accessible and available to the public. [Added by Ord. No. 3381, eff. 10/15/94; Amended by Ord. No. 3812, eff. 6/24/11.]

10-1-926: CRITERIA FOR DESIGNATION OF HISTORIC RESOURCES: Prior to any Resource being approved as a Designated Historic Resource, the City Council shall find that the Resource satisfies one or more of the following criteria. The Resource:

- a) Is associated with events that have made a significant contribution to the broad patterns of Burbank's or California's history and cultural heritage.
- b) Is associated with the lives of persons important in the past.
- c) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- d) Has yielded, or may be likely to yield, information important in prehistory or history. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-927 and Amended by Ord. No. 3812, eff. 6/24/11.]

10-1-927: PROCEDURE FOR DESIGNATION OF HISTORIC RESOURCES: A. ELIGIBLE HISTORIC RESOURCES.

(1) The Director may maintain a list of Eligible Historic Resources. The purpose of the list is to inform City staff, decision makers, and the public for future planning and decision making, and to inform property owners about the potential historic significance of their properties.

(2) Identification as an Eligible Historic Resource does not impose any obligations or requirements not otherwise required by law. Determination of eligibility and inclusion on the list does not constitute a determination of significance for the purposes of environmental review under the California Environmental Quality Act.

(3) Any person may request that the Director investigate a Resource to determine its eligibility. The request shall be made in writing, in a form deemed appropriate by the Director. The Director may require the requestor to submit information regarding the historic significance of the Resource including but not limited to photographs, plans, deeds, and any other materials that may provide information regarding the Resource. A fee for filing the request may be required if so specified in the Fee Resolution.

(4) If determined eligible, the Director shall identify the Resource as an Eligible Historic Resource.

B. APPLICATION FOR DESIGNATION.

The owner of an Eligible Historic Resource may apply to have the Resource approved as a Designated Historic Resource. Such application shall be made in writing, in a form deemed appropriate by the Director. The application shall include the owner's consent to the designation and agreement to abide by the requirements of this Division through the execution of a covenant. The Director may require the owner to submit information regarding the historic significance of the Resource including but not limited to photographs, plans, deeds, and any other materials that may provide information regarding the Resource. An application fee may be required if so specified in the Fee Resolution.

C. HERITAGE COMMISSION REVIEW AND RECOMMENDATION.

Applications for approval of Designated Historic Resources shall be reviewed by the Heritage Commission at a public meeting. The Commission shall determine whether the Resource meets one or more of the criteria for approval as a Designated Historic Resource and, based on this determination, shall recommend to the City Council that the application be approved or denied. The Heritage Commission shall adopt a resolution stating its recommendation, focusing on the criteria set forth in Section 10-1-926, and incorporating its reasons in support or denial of the application.

D. COUNCIL DESIGNATES RESOURCE.

Following the Heritage Commission's consideration of the application, the City Council shall hold a public hearing to consider the application. The applicant shall be provided with at least 15 days notice of the hearing date. Following the public hearing, the City Council shall adopt a resolution to approve or deny the application based on the criteria specified in Section 10-1-927. If the application is approved by the City Council, the Designated Historic Resource shall be added to the City's Register of Historic Resources.

E. COVENANT TO BE RECORDED.

If the application is approved by the City Council, the City shall record a signed covenant in the office of the County Recorder at the Resource owner's expense. The covenant, which shall run with the land and be binding on successors and assigns, shall specify which elements of the Designated Historic Resource are to be protected; and state that any alteration or removal of these elements shall be done in accordance with Section 10-1-928. This covenant shall serve as notice of the approval as a Designated Historic Resource, and shall not be removed from the property without the consent of the City Council. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-928 and Amended by Ord. No. 3812, eff. 6/24/11.]

10-1-928: PROCEDURES AND CRITERIA FOR ACTIONS SUBJECT TO REVIEW:

A. PERMIT REQUIRED.

No person shall demolish, construct, move, change the appearance of or make alterations to any Designated Historic Resource without first obtaining a Permit to Alter a Designated Historic Resource. No building, demolition, or similar permit for such work shall be issued unless a Permit to Alter a Designated Historic Resource has been approved pursuant to this Section.

B. PROCEDURES FOR REVIEWING A PERMIT TO ALTER A DESIGNATED HISTORIC RESOURCE.

1. An application for a Permit to Alter a Designated Historic Resource shall be filed with the Director. The application shall be made in writing in a manner deemed appropriate by the Director. The Director may require the applicant to submit such additional information and materials as may be necessary for a complete review of the application by the Heritage Commission. An application fee may be required if so specified in the Fee Resolution.

2. The Heritage Commission shall consider the application for a Permit to Alter a Designated Historic Resource at a public meeting. The Commission shall not approve the application unless it makes all of the following findings.

- (a) The proposed alteration is consistent with the purpose and intent of the City's Historic Resource Management Ordinance.

- (b) The proposed alteration will not adversely affect the significance or value of the Designated Historic Resource.

(c) The architectural style, design, arrangement, massing, texture, painted and unpainted surfaces, materials, and any other significant factors will not be affected in a way that detracts from the Designated Historic Resource or otherwise decreases the value of the Designated Historic Resource to the community.

3. In approving an application, the Heritage Commission may impose conditions or restrictions as it deems necessary or appropriate for the purpose of making the above findings. These conditions may require changes to the proposed alterations. The Heritage Commission shall adopt a resolution stating its decision and any imposed conditions.

4. A decision of the Heritage Commission regarding an application for a Permit to Alter a Designated Historic Resource may be appealed by any person to the City Council. Such appeal shall be submitted in writing in a form deemed appropriate by the Director and shall be accompanied by payment of an appeal fee if specified in the Fee Resolution. Any appeal shall be submitted within 15 days of the date the Heritage Commission adopts its resolution to approve or deny the permit.

5. The City Council shall hold a public hearing to consider an appeal of the Heritage Commission's decision. Notice of the hearing shall be provided to the Resource owner, permit applicant, and appellant at least 15 days prior to the hearing. Upon conclusion of the hearing, the City Council shall adopt a resolution approving or denying the application and imposing any conditions deemed appropriate.

C. EXEMPTIONS TO REQUIREMENT FOR PERMIT TO ALTER A DESIGNATED HISTORIC RESOURCE.

1. Ordinary Maintenance and Repair. A Permit to Alter a Designated Historic Resource is not required for the ordinary maintenance and repair of any Designated Historic Resource, so long as such maintenance and repair does not involve a change in exterior design, material, or appearance. The Heritage Commission may authorize staff to develop and implement a procedure to approve ordinary maintenance and repair activities meeting the above description.

2. Public Health and Safety. A Permit to Alter a Designated Historic Resource is not required for construction, reconstruction, alteration, restoration or demolition that the Building Official certifies is required to protect public health or safety because of an unsafe or dangerous condition.

3. Economic Hardship. The owner of a Designated Historic Resource may request to be exempted from the permit requirement and carry out work that may adversely affect the value or significance of a Designated Historic Resource on the basis of extreme financial hardship or adversity. Such request shall be submitted by the owner and considered by the Heritage Commission (and City Council if appealed) in the same manner as an application for a Permit to Alter a Designated Historic Resource. The Director may

require the owner to furnish material evidence supporting the request for exemption. The Heritage Commission, and City Council if appealed, shall approve the request for exemption only if all the following findings are made:

- (a) Requiring the owner to obtain a permit, or preventing the owner from carrying out the requested work, would deprive the owner of all reasonable use of, or economic return on, the property on which the Designated Historic Resource is located.
- (b) Requiring the owner to obtain a permit or preventing the owner from carrying out the requested work would cause an immediate hardship because of conditions unique to the specific Designated Historic Resource involved.
- (c) The damage to the owner would be unreasonable in comparison to the benefit conferred to the community by the Designated Historic Resource. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-929 and Amended by Ord. No. 3812, eff. 6/24/11.]

10-1-929: DUTY TO MAINTAIN STRUCTURES AND PREMISES:

The owner, lessees, and any other responsible persons shall take all steps necessary to maintain the Designated Historic Resource in good condition, and to prevent any deterioration or decay that would adversely affect the value or integrity of the Designated Historic Resource. Failure to maintain the Designated Historic Resource in accordance with this Section is a violation of the Burbank Municipal Code and is subject to prosecution. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-930 and Amended by Ord. No. 3812, eff. 6/24/11.]

10-1-930: HISTORIC PRESERVATION INCENTIVES:

A. PURPOSE. The purpose of this Section is to implement the Mills Act which is set forth in California Government Code Sections 50280 et seq., and California and Revenue Code Section 1161, and as those sections may be amended from time to time (hereafter collectively, the —Mills Act) in order to establish a process to enter into contracts with owners of property that has previously been designated as a qualified historic, as defined in the Mills Act, for property tax relief and for the preservation of those historic properties. The City has imposed a limit of three Mills Act contracts per year or a limit on the estimated unrealized property tax revenue loss at \$30,000 per year; however, the Council may waive the limitation in any specific case or Council may make a contract effective the following year.

B. APPLICATION REQUIREMENTS.

(1) Application. A property owner shall complete an application form provided by the Director. The application shall include, but not be limited to, the following:

- a) Historic Property Description;

b) detailed proposed preservation work plan narrative which describes the improvements, maintenance and preservation over the life of the contract (which may be Exhibit B to the contract);

c) grant deed (with legal description of property which may be Exhibit A to the contract) and property ownership statement;

d) Historic Property Inspection report confirming how the work plan is consistent with the historic designation;

e) estimated property tax savings;

f) estimated cost of improvements and estimated timing for completion of improvements (which also may be used as Exhibit C to the contract);

g) photographs of property. The Director may set deadlines for submittal of applications in order to provide the County Assessor's Office with ample time to process the contract. In the event prioritization ranking is necessary, the Director reserves the right to create such procedures.

(2) Fees. The City may charge a fee to recoup all Mills Act contract processing and administrative costs if specified in the Burbank Fee Resolution or if specified in any Mills Act contract.

(3) City Review and Heritage Commission recommendation. Once the application is complete, the Director shall, after providing the property owner with at least fifteen (15) days notice, request the Heritage Commission to review the application, and to make recommendations to the City Council on the merits of the proposed application. The Commission may propose modifications to the work plan as it deems necessary.

(4) City Council Action. The Director shall request Council consideration of the Mills Act contract, after providing the property owner with at least fifteen (15) days notice. Council may in its sole and absolute discretion authorize the Director's execution of the Mills Act contract.

C. PROVISIONS IN MILLS ACT CONTRACTS.

(1) The required provisions of a Mills Act contract between the City and the property owner shall be those specifically required by the Mills Act, as well as any other requests by the City Council, which may include the following:

(a) Term: The term of the contract shall be a minimum of ten (10) years. On the anniversary date of the contract, or such other date as specified in the contract, a year shall be automatically added to the initial term of the contract unless a notice of nonrenewal is given to the owner at least sixty (60) days prior to the renewal date. In the event the property owner chooses to terminate the contract, then the property owner shall provide the Director with a notice of nonrenewal at least ninety (90) days prior to the renewal date.

(b) Verification of Compliance with Work Plan. The owner will agree to permit periodic examination of the interior (if applicable) and exterior of the property, as may be necessary to verify the owner's compliance with the contract. Owner will agree to allow City to photograph the historic property. Owner further will agree to provide any information requested to ensure compliance with the contract. The City is not obligated to inspect, and annual self certification of compliance may be required as provided for in subsection (d).

(c) Recordation of Contract. The contract shall be recorded by the Los Angeles County Recorder's office and shall be binding on all successors-in-interest of the owner. The City Clerk shall record the contract, at applicant's cost, no later than twenty days (20) days after the City enters into the contract.

(d) Notice to State. The Owner shall provide written notice of the contract to the State of California Office of Historic Preservation within six months of entering into the contract.

(e) Annual Report Required. The contract shall require the owner to file an annual report, on its progress of implementing the work plan or restoration or rehabilitation with the Director until the work has been completed to the satisfaction of the Director. Thereafter, during the term of the contract, on an annual basis, the owner shall provide a report on the maintenance of the property, which report may require documentation of the owner's expenditures and actions taken to maintain the qualified historic property.

(f) Cancellation of Contracts. The contract shall expressly provide for the City's authority to cancel the contract if the City determines that the owner has breached the contract either by his or her failure to restore or rehabilitate the property in accordance with the approved plan; by the failure to maintain the property as restored or rehabilitated; or if the owner has allowed its property to deteriorate to the point that it no longer meets the standards for a qualified historic property. No contract can be cancelled until the Council has given notice of, and held a public hearing on, the matter. Notice shall be mailed to the owner and published at least once in a newspaper of general circulation in accordance with the Mills Act.

(g) Alternative to Cancellation if breach. As an alternative to cancellation, the City may bring an action for specific performance or other action necessary to enforce the contract.

(h) Cancellation Fee. The contract may also reiterate the Mills Act requirement of a cancellation fee. If the City cancels the contract, the owner shall pay the State of California a cancellation fee of twelve and one-half percent (12 1/2%) of the current market value of the property, as determined by the county assessor as though the property was free of the contractual restriction.

(i) Force Majeure Cancellations. The contract may require that in the event preservation, rehabilitation, or restoration of the qualified historic property becomes infeasible due to damage caused by natural disaster (e.g., earthquake, fire, flood, etc.), the City may cancel the contract without requiring the owner to pay the State of California the above-referenced cancellation fee as a penalty subject to concurrence by the County Assessor. However, in this event, a contract may not be cancelled by the City unless the City determines, after consultation with the State of California Office of Historic Preservation, in compliance with Public Resources Code Section 5028, that preservation, rehabilitation, or restoration is infeasible.

(j) Work Plan Amendments including Improvements or Schedule. The contract may provide that modifications to the approved work plan require review and approval by the Heritage Commission.

D. MILLS ACT CONTRACT. The Director and the City Attorney shall prepare and maintain a current Mills Act contract with all required provisions specified by state law and this section. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-931 and Amended by Ord. No. 3812, eff. 6/24/11.] 10-1-931: [Added by Ord. No. 3779, eff. 5/7/10; Deleted by Ord. No. 3812, eff. 6/24/11.]